



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

REHEARING DECISION
Case #: MQB - 172320

PRELIMINARY RECITALS

Pursuant to a petition filed on February 26, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance. The hearing was held on March 24, 2016. On April 21, 2016, DHA issued a decision finding that the agency had not properly determined the Petitioner's gross monthly income exceeded the income limit for SLMB+. The matter was remanded to the agency to re-determine his eligibility based on gross monthly income of \$1,226. On April 28, 2016, the agency submitted a request for a rehearing. That request was granted by DHA on May 27, 2016. On July 26, 2016, a second hearing was held at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's healthcare benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On February 8, 2016, the Petitioner contacted the agency to report that he is receiving \$105/week in unemployment compensation benefits. He also receives \$910/month in Social Security income. His gross monthly income was \$1,330. On February 9, 2016, the agency issued a Notice of Decision. It informed him that he was eligible for the Medicaid Purchase Plan (MAPP) effective March 1, 2016 with no monthly premium. It informed him that he was not eligible for Medicare Premium Assistance (QMB or SLMB) due to income exceeding the program limit.
3. On February 26, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals. He disputes the agency determination that he is not eligible for Medicare Premium Assistance, specifically the SLMB+ program.
4. On March 24, 2016, a hearing was held. At that time, the agency testified that the Petitioner's gross monthly income for purposes of Medicare Premium Assistance was \$1,226/month, below the income limit for SLMB+. On April 21, 2016, DHA issued a decision finding that the agency had not properly determined the Petitioner's healthcare benefits and remanding the matter to the agency to re-determine his benefits based on gross monthly household income of \$1,226.
5. On April 26, 2016, the agency submitted a written request for a hearing. In its request for a hearing, the agency asserted a mistake in fact or law had been made in the decision and asserted that the Petitioner's gross monthly income was \$1,424.90 (social security of \$910 including medicare premium of 104.90 and unemployment income of \$420). The agency asserted that the Petitioner was not eligible for SLMB+ due to income exceeding the program limit.
6. On July 26, 2015, a second hearing was conducted. At the hearing, the agency testified that the Petitioner's gross monthly household income was \$1,330 including Social Security and unemployment compensation benefits.

DISCUSSION

The Specified Low Income Medicare Beneficiary (SLMB) and Specified Low Income Medicare Beneficiary Plus (SLMB+) are medical assistance sub-programs mandated by Wis. Stat. § 49.468(1m)(a) that pay their participants' Medicare Part B premiums. Medical Eligibility Handbook (MEH), § 32.1.1. The Qualified Medicare Beneficiary (QMB) program pays not only the Medicare Part B premium but also some Medicare deductibles and co-payments.

At the time of the agency's determination of the Petitioner's eligibility, the QMB income limit was 100% of the federal poverty level (FPL) which was \$980.83/month. MEH, §32.2.3. The SLMB income limit was at least 100% of the FPL, but less than 120% (\$1,177/month). MEH, §32.3.2. The SLMB+ income limit was at least 120% of the FPL, but less than 135% (\$1,324.13/month). MEH, §32.4.2.

The agency testified at both the first and second hearings that the Petitioner's gross monthly income is \$1,330 and counted income for purposes of QMB, SLMB and SLMB+ is \$1,310 (a \$20 disregard is applied to gross income). There has been conflicting testimony from the agency concerning the Petitioner's Medicare premium of \$104.90 and how it is to be treated in this. In the initial determination and at the second hearing, the agency asserted that the \$104.90 premium was already considered in the gross income of \$1,330. At the first hearing, the agency worker testified that \$104.90 should have been subtracted from the \$1,330, giving the Petitioner counted income of \$1,226 which qualified him for SLMB+. At the second hearing, the agency worker was not prepared to address that specific issue but testified that the Petitioner's counted income was \$1,310 making him eligible for SLMB+.

At the hearing, the agency worker also testified that the Petitioner was not eligible for SLMB+ based on grounds other than income. However, the notice of decision issued to the Petitioner only stated that he was denied based on exceeding the income limit. Therefore, I am remanding this matter to the agency again to re-determine Petitioner's eligibility based on counted income of \$1,310/month. If the agency has other grounds upon which to deny the Petitioner's eligibility, it must provide adequate notice to the Petitioner of these grounds with new appeal rights.

CONCLUSIONS OF LAW

The Petitioner's gross monthly income for purposes of Medicare Premium assistance benefits was \$1,330/month and counted income was \$1,310/month.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to re-determine the Petitioner's eligibility for SLMB+ benefits effective March 1, 2016 based on gross monthly income of \$1,330 and counted monthly income of \$1,310. The agency shall issue a new Notice of Decision to the Petitioner regarding his eligibility with new appeal rights. The agency shall provide the Petitioner with any SLMB+ benefits to which he is entitled retroactive to March 1, 2016. These actions shall be completed within 10 days of the date of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of July, 2016

\s _____
Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 29, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability